



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

APR 17 1995

REPLY TO THE ATTENTION OF

HSE-5J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

CSX Transportation, Inc.  
Keith Meiser, Esq.  
Law Department  
500 Water Street  
Speed Code J-150  
Jacksonville, FL 32202

Columbus Scrap Corporation  
Kenneth I. Cohen, President  
P.O. Box 09764  
580 Furnace Street  
Columbus, OH 43209-0764

Re: Columbus Scrap Superfund Site, Columbus, Ohio

Dear Sirs:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency ("EPA") under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within 3 business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of issuance of the Order.

If you have any questions regarding the Order, feel free to contact Mony Chabria, Assistant Regional Counsel, at (312) 886-6842 or Steve Renninger, On-Scene Coordinator, at (216) 835-5200.

Sincerely yours,

*William E. Muno*  
William E. Muno, Director  
Waste Management Division

Enclosure

cc: Janice A. Carlson, Acting Chief  
Division of Emergency Remedial Response  
Ohio Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION V

IN THE MATTER OF:	)	Docket No. <b>V-W- '95-C-289</b>
	)	
COLUMBUS SCRAP SITE	)	ADMINISTRATIVE ORDER
	)	PURSUANT TO SECTION 106(a)
	)	OF THE COMPREHENSIVE
Respondents:	)	ENVIRONMENTAL RESPONSE,
	)	COMPENSATION, AND
	)	LIABILITY ACT OF 1980,
COLUMBUS SCRAP CORPORATION	)	AS AMENDED, 42 U.S.C.
CSX TRANSPORTATION, INC.	)	SECTION 9606(a)
	)	

**I. JURISDICTION AND GENERAL PROVISIONS**

This Order is issued pursuant to the authority vested in the President of the United States by section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Waste Management Division, Region V, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located at the Columbus Scrap Site (the "Columbus Scrap Site" or the "Site"). This Order requires the Respondents to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

EPA has notified the State of Ohio of this action pursuant to section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

**II. PARTIES BOUND**

This Order applies to and is binding upon Respondents and Respondent's, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondent shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondents shall be responsible for any noncompliance.

### III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds that:

1. The Columbus Scrap Site (Facility) is an operating scrap facility located at 580 Furnace Street in Columbus, Franklin County, Ohio. The area is zoned for industrial use. It is approximately six (6) acres in size.
2. CSX Transportation, Inc. (CSX), as owner, leased the Facility property to the Columbus Scrap Corporation (Columbus Scrap) beginning in 1985.
3. On May 25, 1989, Ohio EPA (OEPA) as authorized by the U.S. EPA TSCA Program conducted an inspection of the Facility. Inspectors noted eight large capacitors and visible soil contamination during the site walkthrough. A soil sample obtained by OEPA during the inspection documented the sample to contain 1,000 ppm Polychlorinated Biphenyl (PCB) 1242.
4. On February 23, 1990, OEPA and Chemical Waste Management, contracted by Columbus Scrap, obtained split soil samples at the Facility based on a grid sampling plan of the capacitor area. Composite soil samples analyzed by OEPA's contracted laboratory indicated the presence of 8,700 ppm PCB.
5. In correspondence of Bricker & Eckler to EPA, dated June 8, 1990, Columbus Scrap sampling results indicated prior to two (2) partial cleanups of PCB by Columbus Scrap surface soil contamination at capacitor locations up to 110,000 ppm PCB.
6. On July 27, 1990, the EPA Technical Assistance Team (TAT) conducted a site assessment at the Columbus Scrap Facility after the first of the two (2) partial cleanups. Soil samples were then obtained from two (2) of five (5) PCB capacitor locations where the first partial cleanup had occurred, as well as four (4) random locations outside of the capacitor areas. The soil sample laboratory results indicated the capacitor areas contained up to 108 ppm PCB and the random locations contained soil concentrations up to 279 ppm PCB.
7. The second partial cleanup of the PCB capacitor locations was conducted by Columbus Scrap after the TAT site assessment. The results of this cleanup have not been confirmed by EPA. A report documenting this partial cleanup was submitted to the U.S. EPA TSCA program on October 24, 1990.

8. PCBs have been shown to produce a variety of adverse effects in studies of aquatic organisms and experimental animals. Such effects are related to the dose of PCBs received, a higher dose producing a greater effect. Effects of PCB's observed in experimental animals include: weight loss, liver injury, atrophy of lymphoid tissue, with suppression of immune response, reproductive impairment (such as infertility and low birth rate), carcinogenicity, and death.
9. Persons exposed to PCBs can develop chloracne, and based on laboratory animal data, there is potential for reproductive effect and developmental toxicity, as well as oncogenicity in humans exposed to PCBs. PCBs are very stable compounds, which can persist for years when released into the environment. Based upon documented health impacts on humans and experimental results with laboratory animals, PCBs are a suspected human carcinogen.
10. Except for the front of the Facility, the facility was observed to be unsecured, without fences, walls, gates or other access restrictions apparent.
11. On September 13, 1990, EPA issued a General Notice of Potential Liability to the Potentially Responsible Parties: Columbus Scrap Corporation, Gary Reynolds, Vice President, and CSX Transportation, Inc.
12. On April 10, 1991, EPA issued an Administrative Order by Consent ("AOC"), docket number V-W-91-C-095. The AOC required Columbus Scrap and CSX to conduct an additional site contamination assessment and to ultimately treat or dispose of PCB-contaminated soil with greater than 25 ppm PCBs.
13. Pursuant to the AOC, Respondents' prepared a Site Characterization Work Plan, which was approved by EPA on June 10, 1991. Pursuant to this Work Plan, Respondents' conducted activities which included surveying the Site, sector sampling, and construction of a fence around the Site. The sector sampling indicated approximately five acres of the six acre scrap yard was contaminated with PCBs greater than 25 ppm, with PCB concentrations of up to 240 ppm.
14. Respondents excavated, stockpiled and graded approximately 15,000 cubic yards of soil identified as PCB contaminated. This process began on February 5, 1992, and was completed on April 13, 1992.
15. Results of preliminary sector sampling of the soil pile presented to U.S. EPA by Respondents on September 28, 1994, indicates PCB concentrations of up to 176 ppm.

#### IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, EPA determines that:

1. The Columbus Scrap Site is a "facility" as defined by section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
2. Polychlorinated Biphenyls (PCBs) are "hazardous substances" as defined by section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
3. Each Respondent is a "person" as defined by section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
4. Respondents CSX Transportation, Inc., and Columbus Scrap Corporation are the present "owner" and "operator" of the Columbus Scrap Site, as defined by section 101(20) of CERCLA, 42 U.S.C. § 9601(20). Respondents CSX Transportation, Inc., and Columbus Scrap Corporation are either persons who at the time of disposal of any hazardous substances owned or operated the Site, or who arranged for disposal or transport for disposal of hazardous substances at the Columbus Scrap Site. Respondents are therefore liable persons under section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" into the "environment" as defined by sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).
6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:

- a. **hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;**

This factor is present at the Facility due to the existence of a 15,000 cubic yard PCB contaminated soil pile staged in an unlined area with levels of contamination originally documented up to 8,700 ppm. The unlined nature of this soil pile presents a serious threat of release of hazardous substances.

- b. **high levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate;**

This factor is present at the Facility due to the existence of a 15,000 cubic yard PCB contaminated soil pile staged in an unlined area with levels of contamination originally documented up to 8,700 ppm. Limited soil pile sampling at the Facility has documented PCB contamination at the surface of the pile and to a depth of approximately one foot.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

#### V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, EPA hereby orders that Respondents perform the following actions:

##### 1. Notice of Intent to Comply

Respondents shall notify EPA in writing within 3 business days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

##### 2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondents shall perform the removal actions themselves or retain contractors to implement the removal actions. Respondents shall notify EPA of Respondent's qualifications or the name and qualifications of such contractors, whichever is applicable, within 5 business days of the effective date of this Order. Respondents shall also notify EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If EPA disapproves a selected contractor, Respondents shall retain a different contractor within 2 business days following EPA's disapproval and shall notify EPA of that contractor's name and qualifications within 3 business days of EPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondent's actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to EPA. To the

greatest extent possible, the Project Coordinator shall be present on site or readily available during site work. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 3 business days following EPA's disapproval and shall notify EPA of that person's name and qualifications within 4 business days of EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondent.

The EPA has designated Steven Renninger of the Emergency and Enforcement Response Branch, Region V, as its On-Scene Coordinator (OSC). Respondents shall direct all submissions required by this Order to the OSC at 25089 Center Ridge Road, Westlake, Ohio, 44145, by certified or express mail. Respondents shall also send a copy of all submissions to Mony Chabria, Assistant Regional Counsel, 77 West Jackson Boulevard, CS-29A, Chicago, Illinois, 60606-3590. All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

### 3. Work to Be Performed

Respondents shall perform, at a minimum, the following response activities:

- a. Provide a schedule of the completion of the activities to be performed described in 3b - e;
- b. Develop a health and safety plan;
- c. Develop and implement a sampling plan for the existing 15,000 cubic yards of PCB contaminated soil, which exists on the Site as an approximately 125' x 500' x 4' pile. Analytical parameters will include PCBs and applicable landfill disposal parameters. The sampling plan must include the following:
  - i. Gridding of the soil pile into four hundred forty (440) square block sections with each having the dimensions of 19.2 feet by 19.2 feet by 1 foot (thus, the four foot high soil pile will have 110 block sections at each foot of height);
  - ii. Each square block section must be sampled at the center of the block (thus, samples will be taken at depths of 6 inches, 18 inches, 30 inches, and 42 inches from the top surface of the soil pile)\*; and

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\*Respondents may utilize 81 samples taken in August, 1994, provided the samples were taken within one square block section.

- iii. Post-removal confirmation sampling of the ground under the soil pile to assure complete PCB contamination removal.
- d. Develop and implement an off-site transportation and disposal plan to properly dispose of all material within any section with a sample reading of less than twenty-five (25) parts per million (ppm) PCBs to a special waste landfill. Disposal facilities will be identified and approved by the OSC pursuant to the EPA Revised Off-site Rule prior to initiating transportation and disposal; and
- e. Develop and implement an off-site transportation and disposal plan to properly dispose of all material within any section with a sample reading equal to or greater than twenty-five (25) parts per million (ppm) PCBs to a TSCA hazardous waste landfill. Disposal facilities will be identified and approved by the OSC pursuant to the EPA Revised Off-site Rule prior to initiating transportation and disposal.

### 3.1 Work Plan and Implementation

Within 15 business days after the effective date of this Order, the Respondents shall submit to EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order.

EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If EPA requires revisions, Respondents shall submit a revised draft Work Plan within 7 business days of notification. Respondents shall implement the Work Plan as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify EPA at least 48 hours prior to performing any on-site work pursuant to the EPA approved work plan.

Respondents shall not commence or undertake any removal actions at the Site without prior EPA approval.

### 3.2 Health and Safety Plan

Within 15 business days after the effective date of this Order, the Respondents shall submit a plan for EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 CFR Part 1910. If EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes



to the plan recommended by EPA, and implement the plan during the pendency of the removal action.

### 3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with EPA guidance. Upon request by EPA, Respondents shall have such a laboratory analyze samples submitted by EPA for quality assurance monitoring. Respondents shall provide to EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify EPA not less than 3 business days in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

### 3.4 Reporting

Respondents shall submit a monthly written progress report to EPA concerning activities undertaken pursuant to this Order, beginning 30 calendar days after the date of EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site, and any successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to EPA and the State. The notice to EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

### 3.5 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondents shall submit for EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in section 300.165 of the NCP. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, certificates of destruction, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

### 4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to EPA employees, contractors, agents, consultants, designees, representatives, and State of Ohio representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which EPA determines to be necessary. Respondents shall submit to EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractors, or on the Respondent's behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as EPA deems appropriate.

#### 5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of EPA.

#### 6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with the EPA Revised Off-Site Rule, 40 CFR § 300.440, 58 Federal Register 49215 (Sept. 22, 1993).

#### 7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA section 121(e) and 40 CFR section 300.415(i). In accordance with 40 CFR section 300.415(i), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

#### 8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his unavailability, shall notify the Regional Duty Officer, Emergency and Enforcement Response Branch, Region V at (312) 353-2318, of the incident or Site conditions.

Respondents shall submit a written report to EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or

endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in CERCLA section 103, 42 U.S.C. § 9603, and section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

#### **VI. AUTHORITY OF THE EPA ON-SCENE COORDINATOR**

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

EPA and Respondents shall have the right to change their designated OSC or Project Coordinator. EPA shall notify the Respondents, and Respondents shall notify EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

#### **VII. PENALTIES FOR NONCOMPLIANCE**

Violation of any provision of this Order may subject Respondents to civil penalties of up to \$25,000 per violation per day, as provided in section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to section 106 of CERCLA, 42 U.S.C. § 9606.

#### **VIII. REIMBURSEMENT OF COSTS**

Respondents shall reimburse EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondent's implementation of the requirements of this Order. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. EPA's Itemized Cost Summary, or such other summary as certified by EPA, shall serve as the basis for payment.

Respondents shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency  
Superfund Accounting  
P.O. Box 70753  
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Waste Management Division, U.S. EPA Region V, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Columbus Scrap Site" and shall reference the payors' name and address, the EPA site identification number JR, and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 CFR § 102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

#### **IX. RESERVATION OF RIGHTS**

Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

#### **X. OTHER CLAIMS**

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA shall not be a party or be held out as a party to any contract entered into by the Respondent or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

This Order does not constitute a pre-authorization of funds under section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

## **XI. MODIFICATIONS**

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Waste Management Division, Region V.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit, prior to implementing any modification, a written request to EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

## **XII. NOTICE OF COMPLETION**

After submission of the Final Report, Respondents may request that EPA provide a Notice of Completion of the work required by this Order. If EPA determines, after EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), EPA will provide notice to the Respondents. If EPA determines that any removal activities have not been completed in accordance with this Order, EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

## **XIII. ACCESS TO ADMINISTRATIVE RECORD**

The Administrative Record supporting these removal actions is available for review during normal business hours in the EPA Record Center, Region V, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact Mony Chabria, Assistant Regional Counsel, at (312) 886-6842 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

## **XIV. OPPORTUNITY TO CONFER**

Within 3 business days after issuance of this Order, Respondents may request a conference with EPA. Any such conference shall be

held within 5 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments in writing to EPA within 2 business days following the conference, or within 7 business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference shall be directed to Mony Chabria, Assistant Regional Counsel, at (312) 886-6842. Written submittals shall be directed as specified in Section V.2 of this Order.

#### **XV. SEVERABILITY**

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

#### **XVI. EFFECTIVE DATE**

This Order shall be effective 10 business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 5 business days after the day of the conference.

IT IS SO ORDERED

BY: 

William E. Muno, Director  
Waste Management Division  
United States

Environmental Protection Agency  
Region V

DATE: 4/17/95

ATTACHMENT A  
ADMINISTRATIVE RECORD  
FOR  
COLUMBUS SCRAP CORPORATION

COLUMBUS, OH.

August 31, 1990

DATE	AUTHOR	RECIPIENT	TITLE/DESCRIPTION	PAGES
08/24/90	Weston	U.S. EPA/ OSC	PCB sample results of 7/27/90 investigation	11 site
06/08/90	Columbus Scrap Corp.	U.S. EPA/ ORC	Proposal for clean- up to 25 ppm	7
02/23/90	OEPA	U.S. EPA/ TSCA	Reinspection noting PCB contaminated soil	19
02/05/90	U.S. EPA/ TSCA	Columbus Scrap Corp.	Phone conversation- clean-up levels disputed	3
01/16/90	Columbus Scrap Corp.	U.S. EPA/ ORC	Proposed sampling & clean-up	3
10/25/89	U.S. EPA	Columbus Scrap Corp.	Complaint/notice from TSCA	14
05/25/89	OEPA	U.S. EPA/ TSCA	Inspection noting PCB capacitors, soil contamination	18

UPDATE December 3, 1990

11/05/90	Weston, Inc.	U.S. EPA	Site Investigation	24
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UPDATE

April 22, 1991

04/15/91	Murphy, M., CSX Trans- portation	Liebling, A. U.S. EPA	Correspondence stating that Kemron Environmental Services has been chosen	2
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U.S. ENVIRONMENTAL PROTECTION AGENCY  
REMOVAL ACTION

ADMINISTRATIVE RECORD  
FOR  
COLUMBUS SCRAP CORPORATION  
COLUMBUS, OHIO

UPDATE

March 15, 1995

<u>DATES</u>	<u>AUTHOR</u>	<u>RECIPIENT</u>	<u>TITLE/DESCRIPTION</u>	<u>PAGES</u>
01/31/92	Murphy, M., CSX Trans- portation, Inc.	Renninger, S., U.S. EPA	Letter re: Columbus Scrap Metal, Colum- bus, Ohio - Report on Progress	5

ATTACHMENT B

LIABILITY FILE INDEX

1. PRC Environmental Management, Inc. Title Search report prepared for the EPA for the Columbus Scrap Corporation Site dated October 12, 1990.
2. Articles of Incorporation for Columbus Scrap Corporation dated July 2, 1985.
3. Dun & Bradstreet report for Columbus Scrap Corporation dated June 30, 1989.

bcc: Docket Analyst, ORC (CS-29A)  
Mony Chabria, ORC (CS-29A)  
Steve Renninger, (5SEDO)  
Jose Cisneros, ESS (HSE-5J)  
Carol Graszer Ropski, ESS (HSE-5J)  
Oliver Warnsley, CRS (HSM-5J)  
Toni Lesser, Public Affairs (P-19J) w/out attachments  
Don Henne, Department of Interior  
Tony Audia (MF-10J)  
EERB Site File  
EERB Read File

135909

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION V

IN THE MATTER OF:  
  
Matousek Landfill,  
Garfield Heights, Ohio

Respondents:

Mildred Matousek,  
Melody A. Dabrowski

Docket No.

ADMINISTRATIVE ORDER  
PURSUANT TO SECTION 106  
OF THE COMPREHENSIVE  
ENVIRONMENTAL RESPONSE,  
COMPENSATION, AND  
LIABILITY ACT OF 1980  
as amended, 42 U.S.C.  
§9606(a) and PURSUANT TO  
SECTION 7003 OF THE SOLID  
WASTE DISPOSAL ACT, as  
amended, 42 U.S.C. §6973

PREAMBLE

This Administrative Order (Order) is issued on this date to Respondents, Mildred Matousek and Melody A. Dabrowski, who are or were owners of property on which a closed landfill is situated and which is generally located near Andover Blvd., Garfield Heights, Ohio, Pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986 Pub. L. 99-499 (CERCLA), and delegated to the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by U.S. EPA Delegation Nos. 14-14 and 14-14-A, and pursuant to the authority vested in the Administrator of the Environmental Protection Agency by Section 7003(a) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §6973(a), and delegated to the Regional Administrators by EPA Delegation Nos. 8-22-A and 8-22-B date March 20, 1985.

By copy of this Order the State of Ohio has been notified of the issuance of this Order as required by Section 106(a) of CERCLA, 42 U.S.C. §9606(a) and by Section 7003(a) of RCRA, 42 U.S.C. §6973(a).

This Order requires the Respondents to take actions to abate an imminent and substantial endangerment to the public

health and welfare arising from the actual or threatened release of pollutants or contaminants at the site.

### FINDINGS

1. From approximately 1966 to approximately 1971 a solid waste landfill (hereafter referred to as the Matousek Landfill) was operated on property located at 11400 Valley Lane Drive, generally bounded on the south and west by the New York Central Railroad right-of-way, on the east by property owned by Forest City, and on the north by Valley Lane Drive, in Garfield Heights, Ohio. All or a portion of this property is now referred to as Permanent Parcel No. (PPN) 543-07-001.
2. The Matousek Landfill was operated by Rockside Hiway Landfill, Inc., the principal of which was Ralph Conte.
3. The Matousek Landfill was permitted to operate on said property pursuant to a lease between John Matousek, lessor, and Ralph Conte, lessee dated October, 1965.
4. Mildred Matousek is the sole present owner of PPN 543-07-001, and has continuously held an ownership interest in said property since at least 1968 to the present time.
5. Mildred Matousek is the widow of John Matousek, who died on or about April 9, 1979.
6. Melody A. Dabrowski, formerly known as Melody Jarzab, held an ownership interest in PPN 543-07-001 from 1980 until on or about April 25, 1988.
7. On or about April 12, 1988, the City of Garfield Heights Fire Prevention Bureau detected combustible levels of methane gas at residences located at 6058, 6062, and 6070 Andover Boulevard, which residences are adjacent to PPN 543-07-001 on its eastern boundary.
8. On account of the explosion danger posed by the methane gas, residents of the aforesaid premises were evacuated pursuant to an Order of the Fire Safety Inspector, the evacuation provision of which was extended by an Order of the Cuyahoga Court of Common Pleas.
9. In response to instructions and/or orders issued by state and local authorities, certain measures were implemented on PPN 543-07-001 which sought to reduce the offsite methane gas concentrations.
10. Though these measures have reduced the levels of offsite

methane gas levels, methane gas continues to be detected in monitoring wells at locations beyond the boundaries of PPN 543-07-001.

11. The source of the aforementioned methane gas is the decomposing waste which was disposed of in the closed landfill located on PPN 543-07-001.
12. In addition to the residences located on the eastern perimeter of PPN 543-07-001, the Garfield Heights High School is located on its northeast boundary.
13. The threat of explosion will continue until the migration of methane from the landfill can be halted by installation and operation of a landfill gas extraction system designed to provide a vacuum barrier between the landfill and the adjacent areas.
14. The measures which have been implemented and have resulted in a reduction of methane gas levels will not be effective once the ground freezes.
15. To provide protection to nearby residents from explosions during the winter season, it is necessary that an active gas extraction system be installed, as described hereafter, before the ground freezes.

#### DETERMINATIONS

1. The Matousek Landfill is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. §9601(9).
2. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. §9601(21) and by Section 1004(15) of RCRA, 42 U.S.C. 6903(15).
3. Respondent Mildred Matousek is the past or present "owner" of the Matousek Landfill site, as defined by Section 101(20) of CERCLA, 42 U.S.C. Section 9601(20) and within the meaning of Section 7003 of RCRA, 42 U.S.C. 6973. Respondent Melody A. Dabrowski was an "owner" of the Matousek Landfill site at times when methane was released from the Matousek Landfill site.
4. The offsite migration of methane gas constitutes an actual or threatened "release" as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22).
5. The actual or threatened release of methane gas from the Facility presents an imminent and substantial endangerment to the public health, welfare, or the environment.

6. The actions required by this Order, if properly performed, are consistent with the National Contingency Plan (NCP), 40 CFR Part 300, as amended, and CERCLA; and are reasonable and necessary to protect the public health, welfare and the environment.
7. The conditions present at the Facility meet criteria for conducting a removal action set forth in the NCP, Section 300.65(b)(2), specifically they pose a threat of fire or explosion.
8. Past disposal of solid waste at the Facility has created conditions which may present an imminent and substantial endangerment posed by the migration of methane gas.

#### ORDER

Based upon the foregoing Findings and Determinations, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a) and Section 7003(a) of RCRA, 42 U.S.C. 6973(a), it is hereby Ordered that Respondents undertake the following actions at the Facility:

1. Immediately assume the operation and maintenance of the existing converted passive gas venting system and water pumping operation, and continue same until the active system described hereafter is fully functional.
2. Immediately install an active gas extraction system in accordance with engineering design to be provided by U.S. EPA, which system will generally include:
  - a. the construction of a series of gas extraction wells along a line approximately 75 feet west of the eastern boundary of PPN #543-07-001, for a distance of approximately 1400 feet.
  - b. the placement of well clusters at approximately 50 foot intervals, along the southern 800 feet of the line referred to in a.,
  - c. a well screened in refuse and a well screened in shale, at each cluster location, and
  - d. the connection of a vacuum system to each well to be utilized to extract the methane gas.
3. Upon completion of construction of the active gas extraction system, respondents shall operate said system under the supervision of U.S. EPA for a time period to be specified by the U.S. EPA so as to permit an evaluation of the

system's effectiveness. If it is determined by the U.S. EPA that the system is effective in preventing the off site release of methane gas, Respondent shall operate and maintain said system pursuant to the direction and supervision of the Ohio Environmental Protection Agency. If it is determined, at the conclusion of the evaluation period or at any subsequent time, that the system is not fully effective, Respondents shall take any further actions specified by U.S. EPA including but not limited to the installation of of an additional line(s) of wells parallel and to the west of the initial line.

4. On or before the effective date of this Order, the Respondents shall designate a Project Coordinator. The U.S. EPA has designated Ralph Dollhopf of the Emergency and Enforcement Branch, Eastern Response Unit, as its On-Scene Coordinator. The On-Scene Coordinator and the Project Coordinator shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communication between the Respondent(s) and the U.S. EPA, and all documents, reports and approvals, and all other correspondence concerning the activities relevant to this Order, shall be directed through the On-Scene Coordinator and the Project Coordinator.
5. The U.S. EPA and the Respondents shall each have the right to change their respective designated On-Scene Coordinator or Project Coordinator. U.S. EPA shall notify the Respondents, and Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be verbal, but shall promptly be reduced to writing.
6. The U.S. EPA On-Scene Coordinator shall have the authority vested in an On-Scene Coordinator by the NCP, 40 CFR Part 300, as amended, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or the Respondents at the facility.
7. No extensions to the above time frames shall be granted without sufficient cause. All extensions must be requested, in writing, and shall not be deemed accepted unless approved, in writing, by U.S. EPA.
8. All instructions by the U.S. EPA On-Scene Coordinator or his designated alternate, consistent with the terms of this Order and with the NCP, 40 CFR Part 300, shall be binding upon the Respondents.
9. Respondents shall provide access to the Facility to U.S.



EPA employees, contractors, agents, and consultants at reasonable times, and shall permit such persons to be present and move freely in the area in order to conduct inspections, including taking photographs and videotapes of the Facility, to do cleanup/stabilization work, to take samples to monitor the work under this Order, and to conduct other activities which the U.S. EPA determines to be necessary.

10. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order, or from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. §9601 et seq., RCRA, 42 U.S.C. §6901, et seq., or any other applicable law.
11. The provisions of this Order and the directions of the On-Scene Coordinator shall be binding on the employees, agents, successors, and assigns of the Respondents.
12. This Order shall be effective five calendar days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective on the fifth calendar day following the day of the conference unless modified by the Waste Management Division Director.
13. Within five calendar days of the effective date of this Order, Respondents shall provide notice, in writing, to U.S. EPA stating their intention to comply with either the terms or verbally, with written confirmation to follow promptly, hereof. In the event any Respondent fails to provide such notice, that Respondent shall be deemed not to have complied with the terms of this Order.
14. Copies of all records and files relating to materials found on the site shall be made available to the U.S. EPA On-Scene Coordinator.
15. All notices, reports and requests for extensions submitted under terms of this Order shall be sent by certified mail, return receipt requested, and addressed to the following:

one copy      Ralph Dollhopf  
Emergency Response - Eastern Response Unit  
U.S. EPA  
9311 Groh Road  
Grosse Ile, MI 48138

one copy      Ms. Pam Schafer  
Emergency and Enforcement Response Branch  
U.S. EPA 5HR-11  
230 South Dearborn Street  
Chicago, Illinois 60604

one copy      Charles McKinley  
Office of Regional Counsel  
U.S. EPA 5C-TUB-3  
230 South Dearborn Street  
Chicago, Illinois 60604

#### ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting the above Determinations and Findings is available for review on normal business days between the hours of 9:00 a.m. and 5:00 p.m. in the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 111 W. Jackson Blvd., Third Floor, Chicago, Illinois. Please contact Charles McKinley, Assistant Regional Counsel, at (312)886-6613 to review the Administrative Record. An index of the Administrative Record is attached hereto. A copy of the Administrative Record is also available at the Garfield Heights Public Library.

#### OPPORTUNITY TO CONFER

With respect to the actions required above, Respondents may within five calendar days after issuance of this Order, request a conference with the U.S. EPA to discuss this Order and its applicability to them. Any such conference shall be held within five calendar days from the date of request. At any conference held pursuant to the request, Respondents may appear in person, or by an attorney or other representative. If any Respondent desires such a conference, the Respondent shall contact Charles McKinley, Assistant Regional Counsel, (312)886-6613.

Any comments regarding this Order, its applicability, of any factual determinations upon which the Order is based, the appropriateness of any action which Respondents are ordered to take, or any other relevant and material issue must be reduced to writing and submitted to U.S. EPA within three calendar days following the conference, or if no conference is requested, within three calendar days following the issuance of this Order. Any such writing should be directed to Charles McKinley, Assistant Regional Counsel, at the address cited above.

Respondents are hereby placed on notice that U.S. EPA will take any action which may be necessary in the opinion of U.S.

EPA for the protection of public health and welfare and the environment, and Respondent(s) may be liable under Section 107(a) of CERCLA, 42 U.S.C. §9607(a), and/or under Section 7003 of RCRA, 42 U.S.C. §6973 for the costs of those government actions.

PENALTIES FOR NONCOMPLIANCE

Respondents are advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. §9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject the Respondent(s) to a civil penalty of no more than \$25,000 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Order, or any portion thereof, without sufficient cause may also subject the Respondents to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of the Respondents' failure to take proper action, pursuant to Section §107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3). Respondents are also advised that Section 7003(b) of RCRA, 42 U.S.C. §6973(b) provides for a daily fine of \$5,000 for willful violation, refusal, or failure to comply with this Order.

By:

*Frank M. Chirgoff*  
for Valdas V. Adamkus  
Regional Administrator  
United States Environmental  
Protection Agency  
Region V

7-15, 1988